

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FRANK HEARRING,

Case No. 3:20-cv-00049-ART-CLB

Plaintiff,

ORDER

v.

RICHARD SNYDER, *et al.*,

Defendants.

Pro se Plaintiff Frank Herring initiated this action on January 23, 2020, by filing an application to proceed *in forma pauperis* and attaching the Court's form complaint to proceed with an action under 42 U.S.C. § 1983 for an incarcerated litigant. (ECF No. 1). The Court granted Herring's IFP application on December 7, 2021. (ECF No. 7). Defendants Wickham, Russell, and Henley accepted service on December 27, 2021. (ECF No. 15).¹ On June 6, 2022, Defendants informed the Court that Defendant Snyder was deceased. (ECF No. 38). On June 15, 2022, Judge Baldwin allowed Plaintiff until September 5, 2022 to substitute a party for Defendant Snyder. (ECF No. 40). Plaintiff failed to do so, and did not request an extension of time to substitute a party for Defendant Snyder.

Because more than ninety days has passed since service of a statement noticing the death (ECF No. 38) the action against Defendant Snyder must be dismissed. *See* Fed. R. Civ. P. 25(a)(1) ("If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a

¹ Defendant Schreckengost was dismissed from this action on August 18, 2022, for failure to complete service of process pursuant to Fed. R. Civ. P. 4(m). (ECF No. 44).

1 statement noticing the death, the action by or against the decedent must be
2 dismissed.”).

3 IT IS THEREFORE ORDERED that Defendant Snyder is dismissed from
4 this case. Plaintiff’s claims may proceed against Defendants Russell, Wickham,
5 and Henley.

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7 DATED THIS 19th Day of September 2022.

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10 ANNE R. TRAUM
11 UNITED STATES DISTRICT JUDGE
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